

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

JAMES H. BESS, JR.,

Defendant.

16-cr-156
DECISION & ORDER

On October 4, 2018, the defendant, James H. Bess, Jr., pleaded guilty to one count of possessing with intent to distribute 5 grams or more of methamphetamine, in violation of 21 U.S.C. § 841(a)(1). See Docket Items 66-68, 71. On May 10, 2019, this Court sentenced Bess to a term of imprisonment of 84 months, to be followed by five years of supervised release. See Docket Items 85-86.

On April 13, 2020, Bess brought a motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A), as amended by the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. See Docket Item 90. He argued that his continued confinement in the wake of the COVID-19 pandemic and in light of his multiple medical vulnerabilities poses a serious threat to his health and safety. The government opposed Bess' motion on April 20, 2020, on the grounds that Bess has failed to exhaust administrative remedies. Docket Item 92. Bess replied on April 21, 2020, Docket Items 93 and 94, and this Court heard argument from both parties that same day.

For the reasons stated during argument, and as will be articulated in greater detail in a forthcoming order, this Court grants Bess's motion and orders that he immediately be released to home incarceration.

ORDER

IT IS HEREBY

ORDERED that the defendant's emergency motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A), Docket Item 90, is **GRANTED**; and it is further

ORDERED that the defendant's sentence is reduced to **time served** and the **BOP shall immediately release the defendant**; and it is further

ORDERED that the defendant's term of supervised release shall commence immediately upon his release from incarceration, subject to the terms and conditions set forth in the judgment, Docket Item 86, except that, **beginning 14 days after his release and through October 20, 2022**, the defendant shall comply with the conditions of the Location Monitoring Program (**home incarceration** component); he shall wear an electronic monitor, follow the monitoring procedures outlined in Probation Form 61, and contribute to the cost of services rendered (co-payment); and it is further

ORDERED that the defendant shall contact the United States Probation Office, Western District of New York, at 716-362-5226, within 24 hours of his release; and it is further

ORDERED that, following his release, the defendant must travel directly to 514 E. Fifth St., Jamestown, NY, 14701, and may not make additional stops on his return home; and it is further

ORDERED that, upon returning to his residence, the defendant must self-quarantine for 14 days.

SO ORDERED.

Dated: April 21, 2020

Buffalo, New York

/s/ Hon. Lawrence J. Vilardo

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE